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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Inter-Carrier Compensation )  
For ISP-Bound Traffic )

CC Docket No. 99-68

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## **SUMMARY**

To ensure that the economic foundation for dial-up Internet online services continues to support affordable, efficient and consumer-friendly services, AOL urges the Commission to hold that Internet Service Provider (“ISP”)-bound traffic continue to be subject to reciprocal compensation and that issues regarding such inter-carrier compensation be resolved within the negotiation, arbitration and approval processes of Sections 251 and 252 of the Telecommunications Act of 1996 (“1996 Act”).

Today, as set forth in Sections 251 and 252 of the 1996 Act, incumbent and competitive local exchange carriers (“LECs”) negotiate and enter into interconnection agreements encompassing, among other issues, the inter-carrier compensation arrangements for the transport and termination of all traffic on their respective networks. In many instances, state public utility commissions (“PUCs”) have undertaken thorough costing proceedings, including careful and full consideration of all traffic to establish the governing rates for reciprocal compensation. Notably, when the reciprocal compensation regime was first being considered by both the FCC and the implementing states, the assumption was that traffic bound for ISPs would be encompassed within the adopted framework.

Through the negotiating process, carriers have successfully entered arrangements that foster the symmetrical, cooperative exchange of traffic on their respective networks, including traffic destined for ISPs. As implemented, the interconnection negotiation process has promoted the smooth and efficient resolution of disputes, as all issues regarding rates, terms and conditions for interconnected traffic are considered together, and all disputes are resolved by a single arbitrator. The premise of the reciprocal compensation regime is that it also maximizes incentives for carriers to reduce costs and fosters well-balanced negotiations. As such, this

unified approach to inter-carrier compensation issues has created incentives for the delivery of efficient, competitive services to ISPs (and by extension, their customers). Indeed, if the FCC were to adopt an approach that would require separate state or federal negotiations only for ISP-bound traffic, it would unduly complicate the process, skew the overall negotiating positions of the parties, and possibly undermine the economic foundation for the delivery of ISP traffic that has served the nation so well. Accordingly, the FCC should adopt its tentative conclusion that all inter-carrier compensation issues, including ISP-bound traffic, be considered together.

Significantly, there is nothing in the 1996 Act or any other law or rule that would preclude the FCC from reaching this result. Section 251(b)(5) and Section 252(d)(2) of the 1996 Act, by their terms, do not bar the FCC from concluding that ISP-bound traffic should be treated in the same fashion as local traffic, subject to the same reciprocal compensation rates and the same established interconnection negotiation and arbitration process. Nor is there any governing legislative history to the contrary. In fact, concluding that ISP-bound traffic should be treated for reciprocal compensation purposes as “local” is wholly consistent with the approach the FCC took when it considered the application of interexchange carrier access charges to ISPs. There, the FCC held, and was affirmed by the Eighth Circuit, that ISPs should be considered local “end users,” entitled to pay intrastate rates for their services. Indeed, the FCC’s broad discretion to carry out the public interest in connection with the implementation of the Communications Act was recently affirmed by the Supreme Court.

Nor is there any sound economic or policy basis for the FCC to distinguish between ISP-bound traffic and other traffic included within the reciprocal compensation regime. Not only have reciprocal compensation rates been established by many state jurisdictions based upon the costs for all traffic, including traffic destined for ISPs, but, as the FCC has recognized, the

characteristics of ISP traffic are shared by other types of business traffic. And, despite reams of filings dedicated to this issue in multiple forums, no carrier has ever provided economic evidence that ISP traffic imposes greater costs on service providers than similar, non-ISP traffic.

Finally, when a competitive LEC transports and terminates traffic destined for an ISP, the incumbent LEC avoids the economic costs of terminating that traffic, while at the same time, the competitive LEC incurs incurring costs for such traffic. As the FCC has recognized, this symmetrical, market-driven reciprocal compensation framework therefore not only promotes economic cost recovery, but also creates incentives for carriers to be efficient.

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**COMMENTS OF AMERICA ONLINE, INC.**

America Online, Inc. ("AOL"), by its counsel, hereby submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned proceeding.<sup>1/</sup> To ensure that the economic foundation for dial-up Internet online services continues to support affordable, efficient and consumer-friendly services, AOL urges the Commission to hold that traffic bound for Internet Service Providers ("ISPs") continue to be subject to reciprocal compensation and that issues regarding such inter-carrier compensation be resolved within the negotiation, arbitration and approval processes of Sections 251 and 252 of the Telecommunications Act of 1996 ("1996 Act").

**I. INTRODUCTION**

For over 14 years, America Online, Inc. has been helping to shape and create today's vibrant, diverse Internet online services marketplace. Through AOL's service, and those of the thousands of other ISPs that presently offer dial-up Internet access services throughout the United States, consumers are experiencing a diversity of content and services that provide information, education, entertainment and interactivity. Significantly, the Internet online

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<sup>1/</sup> See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-Carrier Compensation for ISP-Bound Traffic, FCC 99-38, Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket No. 99-68, (Rel. February 26, 1999) ("Ruling and NPRM").

medium has sparked an economic boom that is unparalleled, stimulating new jobs, spurring innovation and increasing productivity.<sup>2/</sup> It has also created a wealth of social, educational and cultural benefits.

While technological advances have certainly helped fuel this growth, the expansive development of Internet online services could not have taken place without the cost-efficient, affordable economic structure for the underlying transmission services upon which dial-up Internet services depend.<sup>3/</sup> Indeed, there is a clear correlation between overall service development and usage and the cost structure for the underlying transmission services.<sup>4/</sup> This successful pricing and regulatory structure, which is the result of the Commission's forward-looking policies – including the decision not to apply interexchange carrier per-minute access charges to ISP traffic – has helped stimulate Internet online service growth by promoting affordable, consumer-friendly Internet access.<sup>5/</sup> In addressing the issues raised in the NPRM, the FCC should take great care not to undermine, directly or indirectly, this success.

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<sup>2/</sup> See, e.g., Jane Linder, Forrester Research, Inc., "eCommerce Takes Off," <<http://forrester.se-com.com/>> (site visited April 6, 1999) (describing economic effects of Internet).

<sup>3/</sup> Today, residential consumers overwhelmingly rely upon dial-up connections through the public switched telephone network ("PSTN"). As broadband deployment occurs, there is an expectation that consumers will increasingly have other access options.

<sup>4/</sup> See e.g., "Net International: Telekom-AOL Online Clash Flares," Reuters Internet, April 4, 1999, <<http://www.mercurycenter.com/svtech/news/breaking/internet/docs/3032971.htm>>.

<sup>5/</sup> See In the Matter of Access Charge Reform; Price Cap Performance Review For Local Exchange Carriers; Transport Rate Structure And Pricing; End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, First Report and Order, FCC 97-158, 12 FCC Rcd 15982 (1997) ("Access Charge Reform Order") at ¶ 343 ("there is no reason to extend such a system to an additional class of customers, especially considering the potentially detrimental effects on the growth of the still-evolving information services industry"), affirmed sub nom. Southwestern Bell Telephone Co. v. FCC, 153 F.3d 523 (8<sup>th</sup> Cir. 1998) ("Southwestern Bell").

## **II. NEGOTIATED ARRANGEMENTS BETWEEN CARRIERS FOR ALL INTER-CARRIER COMPENSATION ISSUES BEST SERVE THE PUBLIC INTEREST**

### **A. Comprehensive Arrangements that Reflect All Inter-Carrier Compensation Issues Best Promote Economically Rational Pricing, Foster Administrative Efficiency and Stimulate Competition**

In the NPRM, the Commission seeks comment on the development of a prospective rule to govern inter-carrier compensation that serves the public interest, tentatively concluding that “commercial negotiations are the ideal means of establishing the terms” between carriers.<sup>6/</sup> AOL agrees that comprehensive arrangements that address all inter-carrier compensation issues best serve the public interest. As such, the FCC should require that issues regarding inter-carrier compensation for ISP-bound traffic be considered as part of the overall Section 251/252 process delineated in the 1996 Act rather than on a discrete basis at either the state or federal level.

While the FCC did not consider specifically ISP traffic when it first examined issues regarding reciprocal compensation, it did note the significant public interest benefits of the comprehensive Section 251/252 interconnection process. As the Commission stressed, this “time-limited” process facilitates “consistent resolution of interconnection issues,”<sup>7/</sup> and benefits all carriers and the public interest because it encourages “competitive entry into new markets while ensuring reasonable compensation.”<sup>8/</sup> In addition, the symmetrical nature of the reciprocal compensation regime gives carriers “correct incentives to minimize” costs, reduces an

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<sup>6/</sup> See NPRM at ¶ 28.

<sup>7/</sup> See In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket Nos. 96-98 and 95-185, First Report and Order, 11 FCC Rcd 15499 (1996) (“Local Competition Order”) at ¶ 1024.

<sup>8/</sup> Id. at ¶ 1045.

“incumbent LEC’s ability to use its bargaining strength to negotiate” rates according to its business interests, and is “administratively easier.”<sup>9/</sup>

By including traffic bound for ISPs within these arrangements, the FCC will enhance and increase the identified public interest benefits while fostering the continued growth and development of Internet online services. As the FCC has stressed, a compensation process that does not distinguish between various types of traffic creates incentives for all carriers to reduce their costs and increase efficiency. Indeed, the benefits of a framework that does not distinguish between various types of traffic were understood by the Commission when it adopted the symmetrical reciprocal compensation scheme for CMRS carriers, even though they were not treated as LECs and their service areas and traffic flows differed from wireline traffic.<sup>10/</sup>

Moreover, by establishing a unified process for the negotiation, arbitration and resolution of all inter-carrier compensation issues (as well as other matters relevant to access and interconnection that are not here at issue), the FCC will also ensure that the final interconnection arrangement that is reached is the result of a genuine market-driven negotiation between the carriers rather than the exercise of undue bargaining leverage by an incumbent carrier. When two LECs negotiate, there may well be payment from the incumbent LEC to the competitive LEC for traffic destined for ISPs. It is also likely, however, there will be payments required to the incumbent LEC for traffic the incumbent LEC terminates. If ISP traffic were eliminated from this mix, it is likely that the incentives that would have otherwise existed for the incumbent LEC to agree upon an economic rate would be significantly weakened. Indeed, not only would the discrepancy in bargaining leverage between new and incumbent carriers increase, incumbents

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<sup>9/</sup> Id. at ¶¶ 1086-1088.

<sup>10/</sup> Id. at ¶¶ 1014-1015, 1024-1025, 1043-1045.

would be doubly rewarded by maximizing the rates when they receive payments but minimizing the rates when they are required to make payments. This result turns the negotiating and competitive incentives of the 1996 Act upside down.<sup>11/</sup>

In addition, were the FCC to conclude that there should be a separate negotiation, arbitration, and approval process for ISP-bound traffic, it would create unnecessary and burdensome administrative and procedural costs for the parties, the affected regulatory and judicial bodies, and ultimately for consumers. At a minimum, coordination time for the negotiations themselves would almost certainly increase. Additional arbitration and review processes, including any requests for mediation, would also be required so that issues regarding both traffic bound for ISPs and other traffic could each be addressed.<sup>12/</sup> These processes would increase costs and resource burdens without any offsetting benefits. Most importantly, the additional burdens would ultimately be passed along to consumers.

For the same reasons, the FCC should also reject the proposal to create a federal negotiation and arbitration process as suggested in the NPRM.<sup>13/</sup> Not only would the benefits of the unified interconnection negotiation, arbitration and approval process be lost, but such a federal process could become incredibly burdensome for the Commission, who would likely be asked to arbitrate numerous disputes, straining the resources of the agency. As such, the Commission should affirm its tentative conclusion that a single, market-driven process under Sections 251/252 to resolve all inter-carrier compensation issues best serves the public interest.

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<sup>11/</sup> As the FCC noted, incumbent carriers “have little economic incentive to assist new entrants in their efforts to secure a greater share” of the market and in fact have “the ability to act on [their] incentive to discourage entry and robust competition....” Local Competition Order at ¶¶ 10-15.

<sup>12/</sup> See generally 47 U.S.C. § 252.

<sup>13/</sup> NPRM at ¶ 31.

**B. The FCC Has Ample Authority to Allow States to Continue to Treat ISP-Bound Traffic as “Local” for Purposes of Inter-Carrier Compensation**

There is no legal bar to the adoption of an FCC rule mandating that traffic destined for ISPs be treated as “local” for reciprocal compensation purposes. In exercise of its sound judgment regarding the public interest and pursuant to its broad discretion, the Commission has ample authority to decide that, regardless of its conclusion that such traffic is interstate traffic for jurisdictional purposes, traffic destined for ISPs should come within the reciprocal compensation framework.<sup>14/</sup>

First, as the Supreme Court recently noted in AT&T Corp. v. Iowa Utilities Board, the Commission has broad discretion over implementation of Sections 251 and 252, despite the strong role traditionally reserved for the states in regulating local telecommunications carriers.<sup>15/</sup> Indeed, the 1996 Act authorizes the Commission to require state regulators to follow specific federal guidelines in order to promote and foster competition.<sup>16/</sup> Where, as here, the FCC can clearly identify the legitimate public interest benefits that will result by including traffic bound for ISPs within the reciprocal compensation regime, the FCC may exercise its authority. Indeed, there is no provision in the 1996 Act or any other statute or rule that would preclude the Commission from exercising its discretion to treat ISP-bound traffic as “local” under these circumstances.

The FCC’s authority to regulate in this manner was recently reaffirmed in connection with its decision to allow ISPs to acquire intrastate business lines rather than pay interexchange carrier access charges. In its Access Charge Reform proceeding, the Commission concluded that

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<sup>14/</sup> See, e.g., 47 U.S.C. § 154(i).

<sup>15/</sup> See AT&T v. Iowa Utilities Board, No. 97-826, slip op. at 10, \_\_ U.S. \_\_ (Jan. 25, 1999) (“We think the grant in § 201(b) means what it says: The FCC has rulemaking authority to carry out the ‘provisions of this Act,’ which include §§ 251 and 252, added by the Telecommunications Act of 1996.”) (footnote omitted).

<sup>16/</sup> Id., slip op. at 17.

since ISPs and other information services do not use the public switched telephone network in the same way or for the same purposes as interexchange carriers, ISPs should not be subject to interstate access charges but rather should pay local rates.<sup>17/</sup> Significantly, in rejecting arguments that the Commission exceeded its jurisdictional authority, the Eighth Circuit found that “the Commission has appropriately exercised its discretion to require an ISP to pay intrastate charges for its lines and to pay the SLC... but not to pay the per-minute interstate access charge.”<sup>18/</sup>

Second, there is nothing in the language of Sections 251 and 252, or the relevant legislative history, that would prevent the Commission from concluding that traffic directed to ISPs should be eligible for reciprocal compensation.<sup>19/</sup> By its terms, Section 251(b)(5) provides that LECs have the duty to “establish reciprocal compensation arrangements for the transport and termination of telecommunications.”<sup>20/</sup> Section 252(d)(2), which addresses the circumstances under which a state may find charges for the transport and termination of traffic just and reasonable, states that rates will not be so considered unless they provide for the

“mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier’s network facilities of calls that originate on the network facilities of the other carrier,” and “determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls.”<sup>21/</sup>

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<sup>17/</sup> Access Charge Reform Order at ¶ 348 (“ISPs should remain classified as end users for purposes of the access charge system”); Southwestern Bell, 153 F.3d at 542 (“ISPs . . . do not utilize LEC services and facilities in the same way or for the same purposes as other customers who are charged a per-minute access fee”). The FCC has also recognized that ISP traffic is treated as local for separations purposes. See In the Matter of Amendment of Part 69 of the Commission’s Rules Relating to the Creation of Access Charge Subelements for Open Network Architecture, Notice of Proposed Rulemaking, 4 FCC Rcd 3983, 3987 (1989).

<sup>18/</sup> See Southwestern Bell, 153 F.3d at 543, 541-44.

<sup>19/</sup> In fact, the record in the FCC’s Local Competition proceeding underscores that some carriers explicitly understood that ISP-bound traffic was to be deemed within the reciprocal compensation regime. See, e.g., Reply Comments of Bell Atlantic in CC Docket No. 96-98 (filed May 30, 1996) (referencing potential costs to incumbents for ISP-bound traffic if transport and termination rates were set too high).

<sup>20/</sup> 47 U.S.C. § 251(b)(5).

<sup>21/</sup> 47 U.S.C. § 252(d)(2).

Thus, nothing in the language of the statute mandates that reciprocal compensation be limited only to “local” or even intrastate traffic.

Moreover, the FCC did not consider the implications of ISP traffic when it issued its decision interpreting the reciprocal compensation provisions of the 1996 Act as part of its local competition rulemaking.<sup>22/</sup> The Commission did reject arguments that would have subjected long distance traffic to the reciprocal compensation framework, stating that reciprocal compensation was not for interexchange carrier traffic.<sup>23/</sup>

In considering initially the function and applicability of the reciprocal compensation regime, however, the Commission acted with the understanding that the traffic it was assessing was either subject to the access charge regime or the reciprocal compensation regime – that it was either local or long distance. In fleshing out this understanding, the Commission articulated its view that “[t]he Act preserves the legal distinctions between charges for transport and termination of local traffic and interstate and intrastate charges for terminating long-distance traffic.”<sup>24/</sup> The FCC further stated that the “transport and termination of traffic, whether it originates locally or from a distant exchange, involves the same network functions” and that “[u]ltimately . . . the rates that local carriers impose for the transport and termination of local traffic and for the transport and termination of long distance traffic should converge.”<sup>25/</sup> As such,

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<sup>22/</sup> See Local Competition Order at ¶¶ 1027-1118.

<sup>23/</sup> See id. at ¶ 1034 (rejecting the argument that Section 251(b)(5) entitles an interexchange carrier to receive reciprocal compensation from a LEC when a long distance call is passed from the LEC serving the caller to the interexchange carrier). Indeed, the FCC has found that ISPs do not use the network in a manner analogous to interexchange carriers. Access Charge Reform Order at ¶ 345.

<sup>24/</sup> Local Competition Order at ¶ 1033.

<sup>25/</sup> Id.

the Commission ruled that “reciprocal compensation obligations should apply only to traffic that originates and terminates within a local area.”<sup>26/</sup>

To hold that ISP-bound traffic should also come within the reciprocal compensation scheme, the FCC need not reconsider its previous conclusions with respect to the applicability of reciprocal compensation for interexchange carrier traffic. The issue of ISP-destined traffic and the application of reciprocal compensation was not before the FCC in the Local Competition rulemaking and consequently, the FCC did not have a record or develop conclusions on this score. Instead, the Commission need only find that based upon the record before it in this proceeding, the public interest will be best served by treating such traffic as within the obligations of Section 252(b)(5) and 252 (d)(2).

In this regard, it is notable that the FCC has already held, in establishing reciprocal compensation rules for wireless carriers, that it could “define the local service area for calls to or from a CMRS network for the purposes of applying reciprocal compensation obligations” based on Major Trading Areas (“MTAs”) rather than by reference to local calling boundaries drawn by state regulators.<sup>27/</sup> By finding that CMRS providers came within the reciprocal compensation regime for calls that originate and terminate in the same MTA, even if the traffic was not within the same “local exchange,” the Commission recognized that it had the power to decide that some types of calls should be eligible for reciprocal compensation despite the fact that they were not

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<sup>26/</sup> Id. at ¶ 1034. The FCC explained its conclusion as follows:

Access charges were developed to address a situation in which three carriers -- typically, the originating LEC, the IXC, and the terminating LEC -- collaborate to complete a long-distance call. As a general matter, in the access charge regime, the long-distance caller pays long-distance charges to the IXC, and the IXC must pay both LECs for originating and terminating access service. By contrast, reciprocal compensation for transport and termination of calls is intended for a situation in which two carriers collaborate to complete a local call. In this case, the local caller pays charges to the originating carrier, and the originating carrier must compensate the terminating carrier for completing the call . . . . We find that the reciprocal compensation provisions of section 251(b)(5) for transport and termination of traffic do not apply to the transport or termination of interstate or intrastate interexchange traffic.

<sup>27/</sup> Local Competition Order at ¶ 1036.

per se “local traffic.” Likewise, the FCC has already recognized that state authority over interconnection agreements “extends to both interstate and intrastate matters.”<sup>28/</sup>

It is axiomatic that an administrative agency enjoys broad discretion in interpreting a statute it is charged with implementing, and the agency is free to adopt any reasonable interpretation of the guidance provided by Congress in the statute.<sup>29/</sup> In fact, administrative agencies have both the power and the responsibility to clarify their interpretation of a statutory provision where, as in this case, circumstances suggest the need for additions or modifications to its initial assessment. Given the FCC’s broad discretion, the FCC should here conclude that the public interest will be best served by including ISP-bound traffic within the reciprocal compensation regime.

**C. There Is No Sound Economic Basis To Distinguish Between ISP-Bound Traffic And Other Traffic Subject To The Reciprocal Compensation Framework**

An FCC decision to subject ISP-bound traffic to the same reciprocal compensation arrangements negotiated for other traffic also reflects sound economics. Indeed, there is absolutely no technical distinction, and therefore no cost differences, between the way an incumbent LEC network handles ISP-destined traffic and the way it handles other traffic within the reciprocal compensation framework.

In a switched connection, the user transmits and receives ISP information using a voiceband modem on a conventional loop connection to the subscriber’s serving central office. The signals generated (and terminated) by the modem are designed to occupy the same spectrum

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<sup>28/</sup> Id. at ¶ 84; see also id. at ¶ 92.

<sup>29/</sup> See Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 844 (1984); Southwestern Bell Telephone Co. v. FCC, 153 F.3d 523, 535 (8<sup>th</sup> Cir. 1998); MCI Telecommunications Corp. v. FCC, 675 F.2d 408, 413 (D.C. Cir. 1982).

as a voice signal so that they may be switched using existing end office and tandem switches and transported between switches by conventional multiplexers and other transmission equipment. As such, the end-to-end routing and transmission of ISP traffic simply cannot be distinguished from that of any other switched traffic.

While there have certainly been claims that ISP-bound traffic imposes different costs on carriers than other traffic, there is in fact no evidence that such is the case. Moreover, the entire reciprocal compensation framework, as implemented, is predicated on a uniform rate that does not vary according to the cost characteristics of particular traffic. Thus, the rate is generally the same whether the traffic is business or residential, or whether the traffic originates or terminates at a consumer's dwelling, a call center, a ticket agency or an ISP.<sup>30/</sup>

Similarly, the symmetrical nature of reciprocal compensation – whereby the rates paid by each carrier for traffic exchanged on their respective networks are the same – also underscores the policy judgment of the FCC that efficiency is best promoted through a uniform traffic compensation rate.<sup>31</sup> Indeed, by basing the rate on the incumbent LECs' costs, for all traffic, the expectation is that incentives for network efficiency will increase, with efficient competitors able to reap the rewards of technological and other improvements.

Further, the nature of reciprocal compensation is such that when a LEC exchanges traffic with another LEC, the originating LEC avoids costs associated with completing those calls and the interconnecting LEC incurs those costs. Thus, despite claims that it is somehow “unfair” to require payment of reciprocal compensation for ISP destined traffic, it is precisely in keeping with the overall economics of efficient inter-carrier compensation. Indeed, given that there is no

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<sup>30/</sup> See, e.g., New York Public Service Commission, Case Nos. 95-C-0657, 94-C-0095 and 91-C-1144, Opinion and Order Setting rates for First Group of Network Elements (April 1997), Order Approving Tariff and Directing Revisions (June 1998).

<sup>31</sup> Local Competition Order at ¶¶ 1085-1090.

economic basis to distinguish between ISP traffic and other traffic, any other result would itself be unreasonable.

In light of its overall approach to reciprocal compensation, the FCC should not now begin to endorse a framework that singles out particular classes of traffic – namely traffic destined for ISPs – for differing treatment. Segregating ISP traffic for compensation cost purposes risks establishing a dangerous precedent whereby traffic from many classes of customers (for example, entities with large volumes of inbound traffic such as call centers or ticket agencies or conversely, wireless traffic which is disproportionately outbound) could be singled out for special treatment because their “cost characteristics” support different rates. Such a result is directly contrary to the comprehensive scheme envisioned by Congress and the FCC and should be rejected.

### **III. CONCLUSION**

Without question, Internet online services are creating a wealth of opportunity for the United States as consumers and businesses increasingly utilize these capabilities for commercial, social, educational and entertainment purposes. For this reason, it is vital that the FCC’s actions not undermine, directly or indirectly, the economic structure that supports today’s dial-up Internet services. As delineated above, AOL therefore urges the FCC to hold that ISP-bound

traffic should continue to be subject to reciprocal compensation and that issues regarding such inter-carrier compensation should be resolved within the negotiation, arbitration and approval processes of Sections 251 and 252 of the 1996 Act.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DL', with a long horizontal line extending to the right.

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I, Cheryl S. Flood, hereby certifies that on this 12<sup>th</sup> day of April, 1999, I caused a copy of the foregoing, "Comments of America Online, Inc." to be sent by messenger (\*) or by, postage prepaid to the following:



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